

## Exhibit 2

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**GARBARINI FITZGERALD P.C.**

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October 7, 2021

**NOTICE OF LITIGATION  
DEMAND TO CEASE AND DESIST  
DEMAND TO PRESERVE DOCUMENTS**

VIA EMAIL ONLY to: <[info@Audiomack.com](mailto:info@Audiomack.com)>; <[ponte@audiomack.com](mailto:ponte@audiomack.com)>

David Ponte  
Founder and CMO  
Audiomack Inc.  
648 Broadway, Suite 302  
New York, NY 10012

Re: Charming Beats LLC adv. Audiomack Inc.

Mr. Pomte

I represent Charming Beats LLC the sole owner, by assignment, of the copyrighted recording and composition *Anything You Synthesize* – U.S. Copyright No. SR 713-287 (the “Copyrighted Track”). On September 19. 2019, Audiomack was served with a take-down notice pursuant to Section 512(c) of the DMCA, concerning the recording titled *Caramelo* by the artist Ninho (the “Infringing Track”). The Infringing Track is composed of my client’s Copyrighted Track and a rap song performed by Ninho over the Copyrighted Track.

Audiomack has not removed the Infringing Track which is currently available on the Audiomack App. and website located at <[audiomack.com/ninhosdt/song/caramelo](http://audiomack.com/ninhosdt/song/caramelo)>. There is no need for a lengthy legal analysis, I am sure you are already aware of the fact that failure to comply with a DMCA Take-Down Notice strips Audiomack of any possible safe-guard under the DMCA. Audiomack is liable, the only issue is the calculation of damages owed by Audiomack to my client.

The Copyrighted Track has an average license fee of \$5,250 for a one-year Internet only license. The actual damages are \$15,750, and the calculation of the anticipated statutory award, should my client so choose, starts at three times that amount or \$47,250.

Contact me at [rgarbarini@garbarinilaw.com](mailto:rgarbarini@garbarinilaw.com) or at 212.300.5358, if Audiomack is interested in resolving this matter pre-litigation. I can represent this matter can be resolved below the actual damages, provided we are not forced to file a complaint. In the interim, Audiomack is required to preserve all documents including web pages, in their original condition, or face a possible spoliation charge at the trial of this action.

GARBARINI FITZGERALD P.C.

By:   
Richard M. Garbarini